



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN

ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Wm. J. Lawson
Secretary of State
Austin, Texas

Dear Sir:

Opinion No. 0-3330
Re: Construction of Article
7084, V.A.C.S. as
amended by the 47th Leg.,
Regular Session.

We acknowledge receipt of your request for an opinion on whether or not under Article 7084, Vernon's Annotated Civil Statutes, as amended by the 47th Legislature, Regular Session, you may assess the franchise tax on notes, bonds and debentures that mature in less than a year but are outstanding more than a year from date of inception and have not been renewed or extended.

The above article reads in part as follows:

" . . . All such instruments which bear a maturity date of less than one year from date of issue but which represent indebtedness which has remained outstanding for a period of one year or more from date of inception, but which have been renewed or extended, or refinanced by the issuance of other evidences of the indebtedness. . . . " (Italics ours)

A court will not assume to construe or interpret a statute if there is no necessity for it to do so. Larkin v. Pruett Lumber Company, 209 S.W. 443. Nor is a court privileged to interpolate words, to add or eliminate provisions, or to enlarge, extend or restrict the scope of a law, except as this may be necessary to effectuate the legislative intent. 39 Tex. Jur. 89.

"The word 'but' (as used in the amendment) is an appropriate term to indicate the intention of those who use it to limit or restrain the sense or effect of something that has been said, or to indicate a proviso, condition, qualification or exception." Union Bargain Trust Co. vs. Building Securities Corp., 273 N. W. 424. (Parenthetical insertion ours)

Prior to the amendment here under consideration, the tax was calculated upon bonds, notes and debentures other than those maturing less than a year from the date of issue. It is apparent from a reading of the amendment that the legislative intent was to include other bonds, notes and debentures. The amendment says in plain and unmistakable words that there shall be included those bonds, notes and debentures maturing in less than a year provided they have remained outstanding a year or more from the date of inception and further provided that they have been renewed, extended or re-financed by the issuance of other evidences of indebtedness.

You are, therefore, advised that you may not include in the supplemental report those notes, bonds and debentures which are issued for a period of less than one year from the date of issue, and which represent indebtedness which has been in existence for a period of one year or more from the date of inception of the indebtedness, but which have not been renewed or extended, or re-financed by the issuance of other evidences of the indebtedness.

Trusting that the foregoing fully answers your inquiry,
we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED JUL 18, 1941

By Richard H. Cocke /s/
Richard H. Cocke
Assistant

/s/ Grover Sellers
First Assistant
Attorney General

RHC:N:B

APPROVED
Opinion
Committee
By BWB
Chairman